

Fresno, California

February 17, 2011

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Oliver Baines III	Councilmember
	Andreas Borgeas	Councilmember
	Clinton Olivier	Acting Council President
	Sal Quintero	Councilmember
	Larry Westerlund	Councilmember
	Blong Xiong	Councilmember
	Lee Brand	Council President

Mark Scott, City Manager
Bruce Rudd, Assistant City Manager
Jim Sanchez, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Kalyan Sharna of the Hindu Temple of Fresno gave the invocation, and President Brand led the Pledge of Allegiance.

RESOLUTION OF COMMENDATION TO JOHN TEXEIRA FOR 50 YEARS OF SERVICE AS A HOUSING AUTHORITY BOARD MEMBER – MAYOR’S OFFICE

Read and presented.

PROCLAMATION OF “FREE APPLICATION FOR FEDERAL STUDENT AID (FAFSA) COMPLETION AND AWARENESS MONTH” – MAYOR AND COUNCILMEMBER BAINES

Read and presented.

ADD-ON: PROCLAMATION OF “PASTOR, DR. WILLIAM C. NOLTE DAY” – ACTING PRESIDENT OLIVIER

Read and presented.

APPROVE MINUTES OF FEBRUARY 10, 2011:

On motion of Councilmember Baines, seconded by President Brand, duly carried, RESOLVED, the minutes of February 10, 2011, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

Councilmember Xiong (1) invited council members to attend/participate in the Asian Pacific Islanders meeting on Friday, February 25th and see the work the commission is doing; (2) thanked Katie Stevens and Georgeanne White for providing an update on legislative priorities; and (3) requested the city manager provide an update and/or information on (a) the PIPES program and (b) why the Mexican Consulate decided to move their downtown office to north Fresno.

Councilmember Baines reported on his speaking engagements yesterday at Fresno City College and Bullard High School in recognition of African American History Month.

APPROVE AGENDA:

(9:00 A.M. “B”) WORKSHOP ON THE RECYCLED WATER MASTER PLAN

Removed from the agenda/to be rescheduled.

(9:45 A.M. “A”) CONSIDER AND ADOPT THE COUNCIL BUDGET REVIEW ACT TO PROVIDE INFORMATION, BACKGROUND AND ANALYSIS TO COUNCIL ENSURING A TRANSPARENT REVIEW AND BROADER UNDERSTANDING OF THE BUDGET AND IMPLEMENTING IT FOR THE FISCAL YEAR 2012 BUDGET PROCESS – ACTING PRESIDENT OLIVIER

#1 RESOLUTION – ADOPTING THE COUNCIL BUDGET REVIEW ACT

Removed from the agenda.

(9:45 A.M. “B”) **BILL NO. B-6** – BILL FOR ADOPTION AMENDING THE FRESNO MUNICIPAL CODE RELATING TO CONTRACTS NOT REQUIRING COMPETITIVE BIDDING – CITY COUNCIL FINANCE & AUDIT COMMITTEE MEMBERS BORGEAS, BRAND AND XIONG

Continued to March 3, 2011.

(10:15 A.M.) HEARING TO CONSIDER A RESOLUTION OF PUBLIC USE AND NECESSITY FOR ACQUISITION OF A PERMANENT UTILITY EASEMENT AND RIGHTS-OF-WAY FOR PUBLIC UTILITY PURPOSES FOR PROPERTY LOCATED ALONG PEACH AVENUE FROM PROPERTY OWNERS FRANK P. CHUNG AND LILY L. CHUNG, AS TRUSTEES OR SUCCESSOR TRUSTEE OR TRUSTEES, UAD, CREATING THE CHUNG FAMILY REVOCABLE TRUST, AND WALTER M. GEE AND WAI YUI GEE, TRUSTEES UNDER REVOCABLE TRUST AGREEMENT, FOR THE PEACH AVENUE WIDENING PROJECT BETWEEN BELMONT AVENUE AND KINGS CANYON ROAD

#1 RESOLUTION – DETERMINING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF THE PERMANENT UTILITY EASEMENT AND RIGHTS-OF-WAY AND AUTHORIZING EMINENT DOMAIN ACTION

Removed from the agenda.

On motion of Acting President Olivier, seconded by Councilmember Quintero, duly carried, **RESOLVED**, the **AGENDA** hereby approved, as amended, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Westerlund, Xiong, Brand
Noes	:	None
Absent	:	None

ADOPT CONSENT CALENDAR:

Councilmember Westerlund pulled Items **1-I** and **1-K** for separate discussion/action.

(1-A) APPROVE APPOINTMENT OF COUNCILMEMBER CLINTON OLIVIER TO THE FRESNO-MADERA AREA AGENCY ON AGING – MAYOR’S OFFICE

(1-B) REJECT ALL BIDS FOR INSTALLATION OF AUTOMATIC PASSENGER COUNTERS ON FAX BUSES

(1-C) APPROVE SENATE BILL 1561 ANNUAL REPORT PREPARED BY FAX STAFF AND FORWARD THE REPORT TO THE CALIFORNIA STATE LEGISLATURE AS REQUIRED BY LAW

(1-D) ADOPT RESOLUTION OF INTENTION NO. 1087-D SETTING A PUBLIC HEARING FOR MARCH 31, 2011, FOR THE PROPOSED VACATION OF A PORTION OF THE NORTH SIDE OF E. MILDREDA AVENUE BETWEEN N. VAN NESS AND THE VAN NESS-COLLEGE ALLEY

(1-E) ADOPT CEQA FINDING OF A CLASS 1 CATEGORICAL EXEMPTION (MINOR ALTERATION OF EXISTING PUBLIC STREET INVOLVING NEGLIGIBLE OR NO EXPANSION OF USE) FOR THE CONSTRUCTION OF BICYCLE FACILITIES ALONG CEDAR AVENUE FROM FLORADORA TO LOS ALTOS AVENUES

#1 AWARD A CONTRACT FOR THE PROJECT TO WITBRO, INC., DBA SEAL RITE PAVING & GRADING, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE CONTRACT ON BEHALF OF THE CITY

(1-F) AUTHORIZE ACCEPTANCE OF A GRANT AWARD OF \$369,309 FROM THE CALIFORNIA EMERGENCY MANAGEMENT AGENCY (CalEMA) FOR THE GANG REDUCTION, INTERVENTION AND PREVENTION (CALGRIP) PROGRAM, AND AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AND EXECUTE THE AGREEMENT SUBJECT TO APPROVAL AS TO FORM BY THE CITY ATTORNEY'S OFFICE

#1 RESOLUTION NO. 2011-26 - 74TH AMENDMENT TO AAR NO. 2010-138 APPROPRIATING \$84,500 OF THE GRANT FUNDS INTO THE POLICE DEPARTMENT BUDGET TO TARGET GANG ACTIVITY (BALANCE OF FUNDS TO BE INCLUDED IN THE FY 2012 BUDGET)

(1-G) AWARD A THREE-YEAR CONTRACT TO FORENSIC NURSE SPECIALISTS OF CENTRAL CALIFORNIA, INC., (FNSCC) IN AN ESTIMATED ANNUAL AMOUNT OF \$106,000 - \$318,000 TO COMPLETE SEXUAL ASSAULT FORENSIC EXAMINATIONS OF VICTIMS AND SUSPECTS WHO DO NOT NEED OR REQUEST MEDICAL TREATMENT

(1-H) RESOLUTION NO. 2011-27 - AUTHORIZING (1) ACCEPTANCE OF A \$15,000 CONTRACTUAL AGREEMENT AND (2) THE ASSISTANT CITY MANAGER OR DESIGNEE TO ENTER INTO AND EXECUTE AGREEMENTS BETWEEN THE PARCS DEPARTMENT AND THE SAN JOAQUIN RIVER CONSERVANCY FOR THE LIFE AND ENVIRONMENTAL SCIENCE PROGRAM

(1-J) APPROVE AMENDMENT NO. 3 TO THE AGREEMENT WITH SHIBUMI CONSULTING SERVICES TO EXTEND THE CONTRACT END TIME FROM 12/31/10, TO 12/31/11, WITH NO ADDITIONAL COMPENSATION, FOR PROGRAMMING SERVICES TO UPDATE THE CITY OF FRESNO BILLING SYSTEM TO ACCOMMODATE THE AUTOMATED WATER METER READING SYSTEM

On motion of Councilmember Westerlund, seconded by Councilmember Quintero, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Westerlund, Xiong, Brand
Noes	:	None
Absent	:	None

CONTESTED CONSENT CALENDAR:

(1-I) RESOLUTION NO. 2011-28 - APPROVING THE FINAL MAP OF TRACT NO. 5869 AND ACCEPTING THE DEDICATED PUBLIC USES THEREIN, AND AUTHORIZE THE PUBLIC WORKS, DARM AND PUBLIC UTILITIES DIRECTORS TO EXECUTE THE NECESSARY DOCUMENTS

Planning Manager Fabino and City Engineer Mozier responded to questions of Councilmember Westerlund and/or clarified issues relative to the outlots fronting San Jose Avenue, if the outlots would be part of a CFD for maintenance, the lot serving as a temporary ponding basin for storm drainage, how temporary basins can be better addressed, there being no requirement to force a property owner to fill in the basin, and infill opportunities and suggestion to look at some kind of mechanism to trigger when basins are ready to put out on the market for development.

On motion of Councilmember Westerlund, seconded by Councilmember Borgeas, duly carried, RESOLVED, the above entitled Resolution No. 2011-28 hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Westerlund, Xiong, Brand
Noes	:	None
Absent	:	None

(1-K) BILL NO. B-7 - AMENDING AND ADDING SECTIONS TO THE FRESNO MUNICIPAL CODE RELATING TO ACCESSIBILITY FOR PEOPLE WITH DISABILITIES

ADA Coordinator Kunz responded to questions of Councilmember Westerlund and clarified issues relative to standards/criteria/safe operation for use of power-driven mobility devices. Councilmember Baines left the meeting at 9:15 a.m. during the discussion.

On motion of Councilmember Westerlund, seconded by Councilmember Quintero, duly carried, RESOLVED, the above entitled Bill No. B-7 introduced before the City Council and laid over, by the following vote:

Ayes	:	Borgeas, Olivier, Quintero, Westerlund, Xiong, Brand
Noes	:	None
Absent	:	Baines

(9:00 A.M. “A”) ADOPT AND SUBMIT THE FY 2010-2011 ANNUAL ACTION PLAN SUBSTANTIAL AMENDMENT TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) APPLYING FOR NEIGHBORHOOD STABILIZATION PROGRAM FUNDS UNDER THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2010 (NSP3), AND AUTHORIZING THE CITY MANAGER TO SIGN ALL IMPLEMENTING DOCUMENTS

Budget Director Smith reviewed the issue, all as contained in the staff report as submitted. Councilmember Baines returned to the meeting at 9:18 a.m. during staff’s presentation.

Speaking in support of the issue, to the success of the program, and to their rehab work as NSP1 participants were Nathan Magsig, Executive Director of CURE, and Gary Mason, President of 2-M Development.

(2 – 0) President Brand spoke briefly to the history of the NSP, clarified at issue this date was an application for funding and a specific plan would be coming back to Council, proposed the three selected entities (CURE, 2-M and the RDA) continue in the program as they were now experienced and had been very successful, stated he would like to see a model wherein the entities are involved in the acquisition of the properties (and paid a fee) and as properties are rehabilitated they are paid approximately 10% of the rehab amount, and presented questions/comments relative to why there were fewer census tracts this time, the target group and requirements, and reiteration of his desire to select developers/sub-recipients and not go out with an RFP, with M.A. Smith responding throughout.

Budget Director Smith and M.A. Smith responded to questions and/or comments of Councilmembers Xiong and Westerlund relative to when a report would be provided on the challenges/successes/results of NSP1 including what was learned and how the success will continue, if HCD will continue to manage the program if NSP3 funding is successful, request for a formal report from the city manager if sole-sourcing will be the recommendation, if staff will report back on program specifics if the funding is received, a reselection of the three developers not being sole-sourcing but a continuation of a relationship resulting from a full-blown RFP/RFQ, concern with the City becoming the entity to acquire properties and request the program not include that, concern with the narrowing down of census tracts and if there is a “plan B” if properties cannot be found in a certain period of time, and how the census tracts/focus areas were selected. A motion and second was made to approve staff’s recommendation. Upon question of Councilmember Baines HCD Manager Casares clarified NSP2 funds were not an entitlement and they were competitive and received based on scoring/population/housing data. Councilmember Baines stated he also wanted the report requested by Councilmember Xiong and echoed his hesitancy about sole-sourcing but stated he would wait to see if the issues that were encountered were rectified.

On motion of Councilmember Westerlund, seconded by President Brand, duly carried, RESOLVED, the substantial amendment to the FY 2010-11 Annual Action Plan submitting to the U.S. Department of Housing and Urban Development (HUD) an application for the third phase of the Neighborhood Stabilization Program hereby adopted, and the City Manager authorized to sign all implementing documents, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Westerlund, Xiong, Brand
Noes	:	None
Absent	:	None

CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL

(‘A’) EXISTING LITIGATION – CASE NAME: KRYSTAL MADRID, ET AL. V. CITY OF FRESNO, ET AL

(‘B’) DECIDING WHETHER TO INITIATE LITIGATION – CASE NAME: POTENTIAL LITIGATION AGAINST THE COUNTY OF FRESNO AND FRIANT RANCH, LP, REGARDING COUNTY APPROVAL OF THE FRIANT COMMUNITY PLAN UPDATE AND FRIANT RANCH SPECIFIC PLAN AND ASSOCIATED EIR

The City Council met in closed session in Room 2125 at the hour of 9:42 a.m. to consider the above matters and reconvened in regular open session at 10:33 a.m. (*Note* - After the lunch recess City Attorney Sanchez announced Council unanimously directed the City to attempt to negotiate project mitigation with the County on the Friant project and if the County refuses the City is authorized to file a lawsuit challenging County approval of the project).

(9:30 A.M.) WORKSHOP ON PRIORITY SETTING (MEETING ROOM ‘A’)

City Manager Scott conducted the workshop and spoke to/explained five lists that were posted on the wall containing numerous topics of importance to the city, all as contained in the written handouts; presented the following question to the mayor and city council: *"Which of the following topics do you rate as top City priorities in the next 18-month period, especially as they relate to dedication of City financial resources and City Council policy time commitment?"*; and noted while the topics were grouped thematically the items were listed in random order, all the topics were important in some respect but the issue was not "importance", and the question presented related to those topics that would require the most time and/or **new** resource allocation in the next 18 months.

Discussion ensued on the topics, six topics were added to the lists (Auto Theft/Property Crime Reduction, Enterprise Zone Preservation, RDA Preservation, Repeal Restrictive Codes (Small Business), Update to Development Fee Schedule, and Parks Maintenance), and the mayor and council engaged in an interactive exercise wherein they were provided with 10 dots initially followed by an additional 10 dots to place by their priorities. Various topics received from 1 to 8 dots, the following 13 topics were the highest priorities receiving 4 to 8 dots each: Small Business Development/Support/Repeal Restrictive Codes-8 dots, Gang/Violent Crime Suppression-7 dots, Grow/Retain Industrial Development-7 dots, RDA Strategic Planning/Preservation-6 dots, Community Policing-5 dots, Field Fire Staffing-5 dots, Street Paving/Pot Holes-5 dots, and the following received 4 dots each: Anti-Graffiti Program, Neighborhood Revitalization/Code Enforcement Efforts, Update/Simplify Development Codes, Update to City Permit Fee Schedule/Development Fee Schedule, Pursue High Speed Rail Opportunity, and Pension System. General discussion ensued among council, Mayor Swearingin and Mr. Scott on various issues including public safety and building the economy being the highest priorities, priorities changing after engaging in broader budget discussions, generating revenue to get through this fiscal crisis, developing partnerships to accomplish some priorities, need to focus on topics that can be accomplished, priorities of the mayor and council being real close, this being a strategic exercise and not setting of priorities, if a list of priorities could be adopted as a matter of policy, the different motivations/backgrounds of members and need for some kind of balance to achieve priorities, developing district "wish lists" for informational purposes, and including some topics together to generate revenue or for cost savings. There was no action required and there was no further discussion.

LUNCH RECESS – 11:45 A.M. – 1:32 P.M. Councilmember Xiong was absent for the remainder of the meeting.

CLOSED SESSION ANNOUNCEMENT:

City Attorney Sanchez announced, in the matter of Closed Session item ‘B’ heard earlier, Council unanimously directed the City to attempt to negotiate project mitigation with the County on the Friant project and if the County refuses the City is authorized to file a lawsuit challenging County approval of the project.

(10:00 A.M.) HEARING TO CONSIDER ADOPTION OF A RESOLUTION OF PUBLIC USE AND NECESSITY FOR ACQUISITION OF A PERMANENT UTILITY EASEMENT AND RIGHTS-OF-WAY FOR PUBLIC UTILITY PURPOSES FROM PROPERTY ALONG PEACH AVENUE (APN 463-050-23) OWNED BY THE CENTRAL CALIFORNIA NIKKEI FOUNDATION (CCNF), FOR THE PEACH AVENUE WIDENING PROJECT BETWEEN BELMONT AVENUE AND KINGS CANYON ROAD

#1 RESOLUTION NO. 2011-29 - DETERMINING THAT PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF THE SUBJECT EASEMENT AND RIGHTS-OF-WAY AND AUTHORIZING EMINENT DOMAIN ACTION

President Brand announced the time had arrived to consider the issue and opened the hearing.

Senior Real Estate Agent Caldwell reviewed the issue and findings to be made, all as contained in the staff report as submitted, and City Engineer Mozier explained issues related to PG&E's additional public utility easement outside of the street area and it being a necessary component of the project.

Nikki Vartikian, representing property owner CCNF, stated the building on the property was an assisted living facility for the elderly and spoke to its history, services provided, and residents, and stated the piece of property at issue might seem small but the residents and owners took pride in their property and requested the large switchbox be located on either side of the property rather than right in the front/in the middle as it was not acceptable aesthetically, among other reasons and explained.

Upon call, no one else wished to be heard and President Brand closed the public hearing.

Councilmember Quintero spoke briefly to the history of the Peach Avenue widening project and meetings held with the Nikkei Foundation and upon his question as to whether the identified site for PG&E's switchbox was the only feasible site Mr. Caldwell advised of PG&E's reasons and need for that site, stated an alternate location(s) was being looked at, and recommended Council move forward and adopt the resolution on a dual-path situation so that if the second location is not acceptable to PG&E the construction project timeline will continue to be on schedule. Councilmember Quintero encouraged talks with PG&E continue and requested he be kept informed, and added he had been in discussions with PG&E staff and there was a remote possibility they may be able to assist as well. Councilmember Westlund spoke to the importance of the Peach widening project and stated he could not in good conscience hold the project up over one electrical box, stated graffiti on boxes can be spray-painted as the City's graffiti team spray-paints power boxes every day of the week, and stated he was totally supportive of continued efforts to move the box but he was ready to move forward on the resolution and made a motion to adopt. Councilmember Quintero seconded the motion stating he agreed with Councilmember Westlund and added graffiti on utility boxes in his district is painted over all the time. Supervising Real Estate Agent Hansen added today was the last day to get this matter "in our hip pocket" to assure the schedule and explained, and stated staff was committed to continuing to work with the Foundation.

On motion of Councilmember Westlund, seconded by Councilmember Quintero, duly carried, **RESOLVED**, the above entitled Resolution No. 2011-29 hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Quintero, Westlund, Brand
Noes	:	Olivier
Absent	:	Xiong

(11:00 A.M.) SPECIAL NOTICE - RESOLUTION NO. 2011-30 – OPPOSING THE GOVERNOR'S BUDGET PROPOSAL TO END ENTERPRISE ZONE TAX INCENTIVES

Incentive Zone Manager Trevino reviewed the issue, all as contained in the staff report as submitted, and read a statement into the record from Chris Adolph with Adolph Foods stating his business has provided jobs in the EZ for 10 years, they located in the EZ to ensure the business stayed competitive with larger non-California owned businesses, and they would seriously have to consider relocating if the EZ tax incentives are taken away.

CFO Steve Spring with Valley Yellow Pages, and Attorney/CPA David Goss, speaking for himself and on behalf of some of his clients (Ritchie Trucking and San Joaquin Distributors), spoke in support of the issue and to how the tax credits helped **(3 – 0)**. Barbara Hunt, 2475 S. Walnut, spoke in opposition to providing tax breaks/financial assistance to businesses due to the economy.

Councilmember Westerlund thanked all for their input and stated it was important for businesses to share their stories with state legislators and the governor's office, and spoke to how eliminating EZ tax incentives would destroy the economic tax base that the rest of the state relies on, to lack of state economic development, to jobs being pulled due to California not being business friendly, and to there being only two economic development tools left, and made a motion to approve the resolution.

On motion of Councilmember Westerlund, seconded by Councilmember Baines, duly carried, RESOLVED, the above entitled Resolution No. 2011-30 hereby adopted, by the following vote:

Ayes	:	Baines, Borgeas, Olivier, Quintero, Westerlund, Brand
Noes	:	None
Absent	:	Xiong

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President Brand advised Councilmember Xiong was absent due to a family matter.

RECESS – 2:08 P.M. – 3:07 P.M.

(3:00 P.M.) PRESENTATION ON FRIVOLOUS CONSTRUCTION LAWSUITS – PRESIDENT BRAND

President Brand gave a brief introduction of the issue and noted Council adopted a resolution last year requesting the State Legislature to support legislation modifying the abuses of construction defects, all as contained in his report to Council as submitted, and advised members of the building industry and related parties would be making the presentation and speak to the problem.

John Bonadelle, 7030 N. Fruit, and Darius Assemi, 1396 W. Herndon, Chair of the Fresno-Madera Building Industry Association, explained how attorneys, primarily from out of town, send out solicitation letters to homeowners to join in a lawsuit if they have construction defects to get easy money, to how clients/homeowners are charged up to 40% plus fees, and to how homeowners cannot get out of lawsuits once they are “sucked in”; stated this was about attorneys soliciting business, this was a scam/racket/ambush as the attorneys know the law and insurance requirements, ‘mom and pop’ businesses have to pay settlement fees and have gone out of business, attorneys do this quietly and ask homeowners to *not* contact their homebuilder, homebuilders never get a call from the attorney, property values are lowered, and because of frivolous litigation many developers are shying away from entry level housing; and requested Council send a clear message to Sacramento legislators to support AB 20 which will protect consumers and builders and bring equity to the home building industry.

Pat Redell, owner of Merzon Industries, 4385 W. Shaw, stated Merzon was once a major employer but today had no employees, his shop was closed, equipment was for sale, and he had been exposed to over 300 of these defect litigation cases, and elaborated further on the issue/problem and spoke to the need to support small business. Bruce Batti, 6466 N. Lafayette, representing the Greater Fresno Area Chamber of Commerce, stated the construction industry was the real economic engine for the valley and this problem was retarding job creation and explained, and spoke to the need to help home builders so they can provide needed jobs.

Homeowners speaking to their experiences and to how they were impacted by litigation were Mary Lou Mendoza, 2317 S. Duke, and Olivia Matsuyama, 5966 E. Erin, Granville homeowner.

Tyler Ayers, representing Assemblymember Linda Halderman's office, stated once her office was approached it became clear very quickly that unscrupulous attorneys were actively soliciting clients to sign onto lawsuits regardless of the actual presence of any defects; elaborated on the problem, impacts, and need to protect home owners and businesses; and reviewed the provisions of AB 20 introduced by Member Halderman.

Public comment was opened and Mike Prandini, representing the BIA; Terry Tuell, 2695 W. Fallbrook, concrete businessman; **(4 – 0)** George Mees, 7488 N. Barton, independent real estate broker; Barbara Hunt, 2475 S. Walnut; Cam Maloy, 2439 E. Soquel Circle; Michelle Brunn, 1301 E. Via Roma, real estate broker, on behalf of homeowners; Jace Brandon, 1199 Commerce, Sanger, co-owner of Kings River Door; Rob Cravy, 3114 W. Barstow; and Douglas Rix, 2273 S. Bundy Drive, Granville homeowner, all elaborated further on the problem and/or on their experiences, possible unintended consequences of these lawsuits, contractors having their own insurance in the future, and in support of efforts to address the problem.

Councilmember Westerlund thanked everyone for their input, stated he has been aware of this issue for some time and was glad to hear it was being taken up at the appropriate level as the city had no capacity to do anything to change state law, encouraged everyone to continue to move/lobby/try to do something in Sacramento and added if the council president wishes to bring back a resolution in support of AB 20 he would be happy to support that, concurred this was a shakedown racket and recommended, as a possible remedy to the problem, that an appropriate "notice to fix" be sent to the developer/contractor prior to suit, and clarified the city had its hands tied in some ways on what it could do as getting too involved in private litigation could put the city at risk of being pulled into that litigation and elaborated further.

Mr. Assemi, John Mahoney, Director of the Real Estate Land Institute at Fresno State, City Attorney Sanchez, ACM Rudd and Mr. Tuell responded to questions of Councilmember Borgeas and/or clarified issues relative to how the lawsuit process transpires, if a homeowner is obligated to inform the next homeowner of defects/litigation/settlement, economics and if any study has been conducted on the impact to the region, consumer protection and if a policy/practice has ever been in place to aid the disclosure process, what exactly AB 20 will accomplish, the building industry understanding this is a state issue but urging Council to send a resolution to the assembly and senate to (1) support AB 20 and (2) address other issues to protect the consumer and bring equity to the industry, AB 20 opposition, and at issue being alleged defects. President Brand stated he personally knew these were alleged defects stating a lawsuit could be pulled because the top of a door was not painted, and thanked all the presenters and everyone else present, wished Assemblymember Halderman success on her bill, and advised he would bring a resolution of support forth in a few weeks and added this industry has been the economic engine for jobs in Fresno county for a number of years and this was one more reason to try to correct this, to bring the region back from the recession, and to put people back to work. There was no further discussion.

SCHEDULED COMMUNICATION – APPEARANCE BY BARBARA HUNT TO DISCUSS THE CITY OF FRESNO ENTERPRISE ZONE, REDEVELOPMENT AGENCY AND JOINT POWERS FINANCING AUTHORITY

Appearance made.

UNSCHEDULED COMMUNICATION:

Upon call, no one wished to be heard.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 4:24 p.m. having arrived and hearing no objection, President Brand declared the meeting adjourned.

Approved on the ____3rd____ day of ____March_____, 2011.

_____/s/_____
Lee Brand, Council President

ATTEST: _____/s/_____
Yolanda Salazar, Assistant City Clerk